



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,105	03/02/2004	Osamu Maeda	90606.244/ym	2437

54071 7590 06/10/2009
YAMAHA HATSUDOKI KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

EXAMINER

MONIKANG, GEORGE C

ART UNIT	PAPER NUMBER
----------	--------------

2614

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JKEATING@KBIPLAW.COM
uspto@kbiplaw.com

Office Action Summary	Application No. 10/791,105	Applicant(s) MAEDA, OSAMU	
	Examiner GEORGE C. MONIKANG	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/24/2009 have been fully considered but they are not persuasive.

With respect to applicant's argument that the Koike et al reference does not concurrently output multiple sound signals to a common speaker, the examiner maintains his stand. The multiple speakers of Koike et al are simply in place to output synthesized signals inside and outside the electrical vehicle (*Koike et al, col. 8, lines 3-8; figs. 2a-2e; col. 5, line 43 through col. 6, line 46: the start signals and run signals are synthesized together and outputted differently for the inside of the electric vehicle and the outside of the electric vehicle*).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Truchsess, US Patent 5,734,726, in view of Koike et al, US Patent 5,635,903.

Re Claim 3, Truchsess discloses generating a sound that simulates the sound of an internal combustion engine having a plurality of cylinders (col. 2, lines 29-35), the sound synthesizer comprising: a memory arranged to store engine sound data corresponding to a plurality of operational states of the engine based on a firing interval of the cylinders (col. 2, lines 29-37); wherein the output generator controls the first and second sound signals such that the first sound signal has at least one of a first pitch that is variable for each firing interval and a first volume that is variable for each firing interval (col. 3, lines 40-53: anyone of the acceleration sounds), and the second sound signal has at least one of a second pitch that is variable for each firing interval independently of the first pitch of the first sound signal and a second volume that is variable for each firing interval independently of the first volume of the first sound signal (col. 3, lines 40-53: anyone of the acceleration sounds after the sound has been decelerated to idle and accelerated again; every acceleration will have different sound levels and pitches), but fails to disclose an output generator arranged to concurrently output first and second sound signals to a common speaker based on the engine sound data stored in the memory as taught in Koike et al (Koike et al, col. 5, lines 21-32; fig. 3: 33; synthesizer to combined sound data with start or drive; col.6 lines 45-60; col.7 line 1-10; figs. 2a-2e; col. 5, line 43 through col. 6, line 46: the start signals and run signals are synthesized together and outputted differently for the inside of the electric vehicle and the outside of the electric vehicle). It would have been obvious to use the

Art Unit: 2614

synthesizer of Koike et al (Koike et al, col. 5, lines 21-32; fig. 3: 33; synthesizer to combined sound data with start or drive; col.6 line 45-60; col.7 line 1-10; figs. 2a-2e; col. 5, line 43 through col. 6, line 46: the start signals and run signals are synthesized together and outputted differently for the inside of the electric vehicle and the outside of the electric vehicle) with the system of Truchsess output the signals concurrently for the purpose of providing a smooth realistic engine sound.

Re Claim 4, the combined teachings of Truchsess and Koike et al disclose the sound synthesizer according to claim 3, wherein the first pitch and the first volume of the first sound signal are varied at a first rate (Truchsess, col. 3, lines 62-67: the engine produces different sound levels and pitches depending on acceleration or deceleration), and the second pitch and the second volume of the second sound signal are varied at a second rate different from the first rate to cause the sound synthesizer to generate sound having fluctuations in volume, pitch, and tone (Truchsess, col. 3, lines 62-67: the engine produces different sound levels and pitches depending on acceleration or deceleration).

Contact

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2614

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/
Examiner, Art Unit 2614

6/2/2009

Application/Control Number: 10/791,105

Page 6

Art Unit: 2614

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614